

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

MICHAEL KEVIN DuPONT,

Petitioner

v.

DAVID NOLAN,

Respondent

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Habeas No. 04-11431-GAO

[Local Rule Hearing Requested]

PETITIONER'S VERIFIED MOTION FOR BAIL HEARING AND EXPEDITED
BAIL RELEASE BASED UPON BLAKELY V. WASHINGTON, 124 S.Ct. (2004)

Now comes your Petitioner, Michael DuPont, and requests a bail hearing scheduled at the earliest possible time this month, for expedited bail release, based upon his having the same category of issue that won in BLAKELY V. WASHINGTON, 124 S.Ct. (June 24, 2004). See attached certiorari petition #03-10227, and note absence of indictment n.l./, absence of 12/13/04 plea factual basis, or element waiver colloquy, for MGL Chapter 127, Section 129 aggravated 3,000 day punishment element.

Bail is appropriate following DRETKE V. HALEY, 124 S.Ct. 1847(2004) and Petitioner's friends can set up rent-free apartment, while law office employment has been previously offered to Petitioner, and March 2005 is sentence expiration anyway without 3,000 days good-time which make this sentence expire in 1996.

Marc Orlandella, overheard US. Marshall say Judge Young sent him because another judge was afraid, relayed ex parte to Judge Zobel by his Court Officer on 1/19/00, so all Federal Judges owe Petitioner apology and early release hearing. *Probably Judge Lucas*

For causing 5 extra year sentence imposition
n.l./In addition to federal Sixth and Fourteenth Amendment violations, BLAKELY V. WASHINGTON, 124 S.Ct. (June 24, 2004) the absence of factual basis or element waiver in plea colloquy becomes even stronger when absence of indictment is considered as violation of Article XII of the Massachusetts Constitution, COMMONWEALTH V. SMITH, 1 Mass 245, 246-247(1804); WILDE V. COMMONWEALTH, 43 Mass 408, 410(1841); LARNED V. COMMONWEALTH, 53 Mass 240, 242(1847); JONES V. ROBBINS, 74 Mass 329, 347-349(1857); COMMONWEALTH V. HARRINGTON, 130 Mass 35, 36(1880); WALSH V. COMMONWEALTH, 224 Mass 40, 41-42(1916); BROWN V. COMMISSIONER, 394 Mass 89, 90-94(1985) (Walpole "infamous punishment" element); BIMBO V. AMARAL, Suffolk No. 75152(4/29/85 Zobel, J); COMMONWEALTH V. BARBOSA, 421 Mass 547, 549(1995) ("Article 12 requires that no one may be convicted of a crime punishable by a term in the state prison without first being indicted for that crime by a grand jury"). SEE EQUAL PROTECTION GROUNDS FOR RIGHT TO STATE INDICTMENT ELEMENTS SET OUT IN HABEAS PETITION PRE-served now on ; Atty General's Office attached to this motion !

July 1, 2004 mailed; w/copy served on state Attorney General's Office, One Ashburton Place, Boston, MA. 02108. cc: Petitioner's file

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
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